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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.												
10/829,669	04/21/2004	Richard F. Gladney	SMCY-P03-085	7742												
7590 ROPS & GRAY LLP EDWARD J. KELLY ONE INTERNATIONAL PLACE BOSTON, MA 02110-2624		<table border="1"><tr><td colspan="2">EXAMINER</td></tr><tr><td colspan="2">SANTOS, ROBERT G</td></tr><tr><td>ART UNIT</td><td>PAPER NUMBER</td></tr><tr><td colspan="2">3673</td></tr><tr><td>MAIL DATE</td><td>DELIVERY MODE</td></tr><tr><td colspan="2">06/15/2007 PAPER</td></tr></table>			EXAMINER		SANTOS, ROBERT G		ART UNIT	PAPER NUMBER	3673		MAIL DATE	DELIVERY MODE	06/15/2007 PAPER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/829,669	GLADNEY, RICHARD F.	
	Examiner Robert G. Santos	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2006 and on 22 March 2007.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1 and 3-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1 and 3-18 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>20061122</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 6-14, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Autrey et al. '781. As concerns claims 1 and 7-14, Broyles lacks the use of a mattress foundation (C) having at least one sidewall outer surface (2-5) including three dimensional architectural features formed or molded therein, wherein the architectural features mimic a pattern and tactile feel substantially comparable to a quilted surface of a companion mattress (B), wherein the plastic side wall includes a panel interfitted onto the outer surface thereof and an outer surface of the panel includes the three dimensional features molded therein, as well as the use of at least one ground support member (f) which also includes a pattern. Autrey et al. provide the basic teaching of a mattress foundation (111) for supporting a companion mattress (141), wherein the mattress foundation comprises at least one essentially rigid sidewall (113) and an outer surface (119) of the sidewall includes three dimensional architectural features (as shown in Figure 6) that mimic a pattern and tactile feel substantially comparable to a quilted surface (143, 144) of the companion mattress. The skilled artisan would have found it obvious at the time the invention was made to provide the mattress assembly of Broyles with a mattress foundation comprising at least one sidewall outer surface each including

three dimensional architectural features formed or molded therein, wherein the architectural features mimic a pattern and tactile feel substantially comparable to a quilted surface of a companion mattress, wherein the plastic side wall includes a panel interfitted onto the outer surface thereof and an outer surface of the panel includes the three dimensional features molded therein, and at least one ground support member which also includes a pattern in order to impart a finished appearance to the mattress assembly as desired.

With regards to claims 6, 17 and 18, Broyles is considered to show conditions wherein a pattern (12) is formed on at least a portion of the upper side of the top surface (1) of the mattress foundation (C) and wherein an outer periphery portion of the top surface is substantially devoid of substantially any three dimensional features in Figure 1 and in column 2, lines 58-62.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Autrey et al. '781, and further in view of Saputo '946. Broyles, as modified by Autrey et al., does not specifically disclose the use of a headboard tangentially extending vertically along one end of the foundation. Saputo provides the basic teaching of a plastic mattress foundation (10) provided with brackets (59, 60) for securing a headboard thereto. The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles, as modified by Autrey et al., with a headboard tangentially extending vertically along one end of the foundation in order to impart a more finished appearance thereto.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Autrey et al. '781 and further in view of Saputo '946 as applied to claim 3 above, and

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further in view of Bellows et al. '191. Broyles, as modified by Autrey et al. and as further modified by Saputo, does not specifically disclose a condition wherein the headboard is constructed substantially of plastic material. Bellows et al. provide the basic teaching of a plastic bed frame (10) including a headboard (16) and constructed from a plastic material (see Bellows et al. '191, column 3, lines 37-39). The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles, as modified by Autrey et al. and as further modified by Saputo, with a headboard constructed substantially of plastic material since such a headboard is generally well known as being economical and lightweight as taught by Bellows et al., thereby also facilitating attachment to a mattress foundation.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Autrey et al. '781 and further in view of Saputo '946 and Bellows et al. '191 as applied to claim 4 above, and further in view of Wallace et al. '537. Broyles, as modified by Autrey et al. and as further modified by Saputo and Bellows et al., does not specifically disclose a condition wherein an outer surface of the headboard includes a pattern. Wallace et al. provide the basic teaching of a headboard (12) provided with a pattern (21) on its outer surface (18). The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles, as modified by Autrey et al. and as further modified by Saputo and Bellows et al., with a headboard having an outer surface including a pattern in order to "enhance the attractiveness and beauty of the structure" as desired (see Wallace et al. '537, column 1, lines 3-9).

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6. Claims 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broyles '729 in view of Autrey et al. '781, and further in view of Stephens '953. Broyles, as modified by Autrey et al., does not specifically disclose the use of an aperture for a drawer and a drawer slidably interfitted within the aperture. Stephens provides the basic teaching of a mattress foundation assembly comprising an aperture (11) for a drawer and a drawer (12) slidably interfitted within the aperture. The skilled artisan would have found it obvious at the time the invention was made to provide the mattress foundation of Broyles, as modified by Autrey et al., with an aperture for a drawer and a drawer slidably interfitted within the aperture in order to provide a convenient storage space for items as desired.

Response to Amendment

Applicant's arguments found on pages 5 and 6 of his amendment concerning the Broyles and Autrey et al. patents are of no consequence as these arguments attack the references individually. Where the rejection is a combination of references, Applicant(s) cannot show unobviousness by so attacking the references. *In re Young et al.*, 56 CCPA 757, 403 F.2d 754, 159 USPQ 725. The examiner respectfully maintains that Broyles still provides the basic teaching of a mattress foundation constructed substantially of plastic material, whereas Autrey et al. provide the basic teaching of a mattress foundation having a sidewall with an outer surface that inherently includes three dimensional architectural features formed therein which mimic a pattern and tactile feel substantially comparable to a quilted surface of a companion mattress. Accordingly, the claim rejections under the prior art have been respectfully maintained.

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Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hofmann '583.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert G. Santos whose telephone number is (571) 272-7048. The examiner can normally be reached on Tues-Fr and first Mondays, 10:30 a.m. to 8:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Robert G. Santos
Primary Examiner
Art Unit 3673

R.S.
June 10, 2007